

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2720 of 1998

to

FIRST APPEAL No 2879 of 1998

with

Civil Application No.1469 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

and

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?
- 1 to 5: No

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EXECUTIVE ENGINEER

Versus

SPECIAL LAND ACQUISITION OFFICER

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Appearance:

MR GHANSHYAM AMIN for appellant

Mr. A.J. Patel for the claimants-respondents

Mr.H.L. Jani, AGP, for the State, in F.A. Nos. 2720 to 2799 of 1988

Mr.M.R. Rawal, AGP, for the State in F.A. Nos.2800 to 2879 of 1998.

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CORAM : MR.JUSTICE J.M.PANCHAL and

MR.JUSTICE M.H.KADRI

Date of decision: 03/03/99

COMMON ORAL JUDGMENT (Per: Panchal, J)

1. All these appeals, which are filed under Section 54 of the Land Acquisition Act, 1894, read with Section 96 of the Code of Civil Procedure, 1908, are directed against the common judgment and award dated January 27, 1998, rendered by the learned Second Extra Assistant Judge, Kheda, at Nadiad, in Land Reference Cases Nos. 764/93 to 781/93, 1059/93 to 1074/93, 1158/93 to 1169/93, 1251/93 to 1278/93, 653/94 to 658/94, 691/94 to 703/94, 1114/94 to 1124/94, 1177/94 to 1188/94, 1195/94 to 1209/94, 1272/94 to 1287/94, 1618/94 to 1629/94 and 668/96. All the abovenumbered land reference cases were consolidated with Land Reference Case No. 1119/94 which was treated as main reference and in which the parties had led common evidence. As common questions of fact and law are involved in these appeals, we propose to dispose of them by this common judgment.

2. The Executive Engineer, Narmada Project, had made proposals to the State Government to acquire agricultural lands of village Vanghroli, Taluka Thasra, District Kheda, for the public purpose of Narmada Project Main Canal. On scrutiny of those proposals, the State Government was satisfied that the agricultural lands of village Vanghroli were likely to be needed for the said purpose. Accordingly, different notifications under Section 4(1) of the Land Acquisition Act, 1894 ('Act' for short), were issued and published on different dates. The particulars of publication of notifications are given by the Reference Court in paragraph 1 of the judgment. Those whose lands were proposed to be acquired were given opportunity of hearing and they had filed their objections against the proposed acquisition. After considering their objections, different reports were submitted by the Special Land Acquisition Officer, Vadodara, to the State Government as contemplated by Section 5-A(2) of the Act. On consideration of those reports, the State Government was satisfied that the agricultural lands of village Vanghroli which were specified in different notifications published under Section 4(1) of the Act were needed for the public purpose of Narmada Project Main Canal. Therefore, different declarations under Section 6 of the Act were made which were also published in the official gazette. Interested persons in respective cases were thereafter

served with notices for determination of compensation. The claimants had appeared before the Special Land Acquisition Officer and claimed compensation at the rate of Rs.10,000/- per Are. The Special Land Acquisition Officer after considering the materials placed before him by different awards offered compensation to the claimants at the rate of Rs.300/per Are for irrigated lands and Rs.200/- per Are for non-irrigated lands. The particulars of different awards made by the Special Land Acquisition Officer, Vadodara, are mentioned in paragraph 1 of the impugned common award. Claimants were of the opinion that offer of compensation made to them by the Special Land Acquisition Officer, Vadodara, was inadequate. Therefore, they made applications in writing requiring the Special Land Acquisition Officer to refer the matter to the Court for the purpose of determination of the compensation. Accordingly, references were made to the District Court, Kheda, at Nadiad, which were numbered as mentioned in the earlier part of this judgment. In the reference applications, it was claimed by the claimants that their agricultural lands which were acquired were very fertile and having regard to income derived by the claimants from the sale of agricultural produces, they were entitled to compensation at the rate of Rs.10,000/- per Are. We may state that, by mistake, the Reference Court has mentioned in the common impugned award that the claim advanced by the claimants before the Reference Court was at the rate of Rs.12,000/- per Are but the record shows that claim by the claimants before the Reference Court was for Rs.10,000/- per Are. The appellant, i.e, Executive Engineer, Narmada Project, Division No.10, Kheda, as well as respondent No.1, contested the reference applications by reply Exh.17. In the reply, it was mentioned that, after considering fertility of the lands acquired as well as income derived by the claimants from the crops, the Special Land Acquisition Officer had determined compensation and, therefore, the reference applications should be dismissed. Upon rival assertions of the parties, necessary issues for determination were raised by the Reference Court at Exh.18. In order to substantiate the claim advanced in the reference application, witness Manharbhai Motibhai at Exh.32 was examined by the claimants at Exh.32. The witness deposed before the Court that he and other claimants were taking crops of paddy, wheat and millet. According to this witness, the claimants were able to take paddy crop of 100 mounds per bigha, whereas the yield of wheat per bigha was 80 mounds and that of millet was also 80 mounds per bigha. The witness asserted in his evidence that his net profit from the sale of agricultural produces was Rs.30,000/- per

bigha. This witness further stated that one of the claimants, i.e, Vagjibhai Mathurbhai, was paid more than Rs.44,000/- as compensation for well and he was also entitled to compensation for tube-well on the same basis. The claimant also produced copies of the registers maintained by the Irrigation Department at Exh.22 to 31 for the year 1989-90 and 1990-91 showing demand of irrigation charges in advance. The price list prepared and issued by the Kapadwanj Taluka Agricultural Produce Market Committee for the year 1989-90 was produced by the claimants at Exh.35, and price list for the year 1990-91 was produced at Exh.36. The claimants also produced village forms No.7/12 pertaining to the lands of the claimants at Exh.39 to 194. Certified copy of deposition of expert examined by the claimants in another case was produced at Exh.196 whereas the report prepared by the said expert produced in another case was tendered in evidence at Exh.197. Expert, Mohanbhai Brahmabhatt, while preparing report, had relied upon Krushi Jivan Silver Jubilee Magazine, copy of which was produced by the claimants in the present case at Exh.195/3. On behalf of the present appellant, certified copy of sales index for the agricultural lands of village Vanghroli was produced at Exh.200 whereas certified copy of map of Thasra Taluka was produced at Exh.201. The appellant also produced certified copy of map of village Vanghroli at Exh.202 as well as final annavari of the year 1985-86 to 1991-92 of village Vanghroli showing the annual produces at Exh.203. The appellant further produced judgment of the High Court at Exh.207, and previous award in respect of agricultural land of village Sangol at Exh.210. Another previous judgment rendered in respect of agricultural lands of village Thasra was produced at Exh.211 and joint measurement sheet was produced at Exh.213. The appellant also relied upon the certified copy of part 104 of the Land Acquisition Manual in support of its case that the claimants were not entitled to enhanced compensation.

3. On appreciation of evidence, the Reference Court held that index of sale deeds produced by the present appellant as well as the respondent No.1 were not relevant for the purpose of ascertaining market value of the acquired lands as neither vendor nor vendee nor scribe of any deed was examined to bring on record the relevant factors such as proximity of lands covered by those transactions to the acquired lands, similarity of lands, etc. The Reference Court further held that previous judgments produced by the appellant were not in respect of comparable lands and, therefore, not relevant for the purpose of ascertaining the market value of the

acquired lands. Placing reliance on the evidence of witness, Manharbhai M. Patel, the Reference Court deduced that his evidence was relevant for the purpose of ascertaining the market value of the acquired lands on yield basis. It was held by the Reference Court that deposition of expert recorded in another case and produced on record of the case was also relevant and reliable for the purpose of ascertaining market value of the acquired lands on yield basis. The Reference Court held that for assessing market price of the acquired lands, total yield of paddy crop, and wheat for one class and total yield of tobacco and millet for another class of claimants was required to be ascertained. Placing reliance on the deposition of witness Manharbhai, which was recorded at Exh.32, as well as written statement, the Reference Court held that yield of paddy crop was 4000 kg. per Hectare, whereas that of wheat was also 4000 kg. per Hectare and tobacco yield was 2200 kg per Hectare. The Reference Court also held that average minimum yield of millet was 3000 kg per Hectare. Thereafter, the Reference Court took into consideration price list issued and prepared by the Kapadwanj Taluka Agricultural Produce Market Committee as well as report of the expert prepared in another case and held that minimum price of paddy was Rs.350 per 100 kg whereas that of wheat was 375 per 100 kg, and price of tobacco was Rs.1750 per kg. The Reference Court also held that price of millet was Rs.250/- per 100 kgs. According to the Reference Court, those claimants who were taking two crops of paddy and wheat were getting minimum yield of Rs.20,000/- per Hectare, whereas those who were taking two crops of tobacco and millet were getting minimum yield of Rs.46,000/- per Hectare. The Reference Court thereafter took average income from yield for assessing market value of the acquired lands at Rs.37000/- per Hectare. The Reference Court noted that farmers had tendency to exaggerate their claims and, therefore, 10% should be deducted while computing average yield and held that the average yield was Rs.33,000/- per Hectare. The Reference Court was of the view that from the total yield, 50% should be deducted towards cost of cultivation and that having regard to the facts of the case, multiplier of 10 should be adopted for calculating market value of the lands acquired on yield basis. Thus, in the ultimate decision, the Reference Court held that the claimants were entitled to compensation at the rate of Rs.1600/per Are by the impugned common award which has given rise to the present appeals.

4. The learned counsel for the appellant submitted that the compensation in this case ought to have been

determined by the Reference Court having regard to the sale instances produced by the appellant and, therefore, the impugned common award should be set aside. It was claimed that previous awards of the courts were also relevant for the purpose of determining market value of the acquired lands and, therefore, determination of compensation made by the Reference Court on yield basis should be set aside. What was stressed by the learned counsel for the appellant was that reliance placed by the Reference Court on the previous deposition of the expert, Mohanbhai, recorded in another case was wholly illegal and, therefore, determination of compensation made on the basis of said inadmissible evidence should be set aside. The learned counsel emphasized that no cogent and reliable evidence was led by any of the claimants to enable the Court to determine the market value of the lands on yield basis and, therefore, the appeals should be accepted.

5. Mr. A.J. Patel, learned Senior Advocate, appearing for the claimants, pleaded that the best evidence in the form of sale instances either relating to acquired lands or of nearby lands was not available nor previous awards were at all comparable or relevant for the purpose of ascertaining the market value of the acquired lands and, therefore, the Reference Court was justified in determining the market value of the acquired lands on yield basis. The learned counsel submitted that the particulars given by witness Manharbhai Motibhai Patel, Exh.32, read with previous deposition of expert recorded in another case was sufficient to enable the Reference Court to determine the market value of the acquired lands on yield basis and, therefore, the impugned common award should not be interfered with. What was highlighted was that it is the duty of the Court to determine just compensation in case of compulsory acquisition and the just award of the Reference Court should not be set aside when compensation awarded to the claimants is not found to be excessive.

6. We may state that the respondents of First Appeal No.2720 of 1998, who were claimants in Land Acquisition Case No.1119 of 1994, have filed Civil Application No.1469 of 1999 under Order 41 Rule 27 of the Code of Civil Procedure and sought permission of the Court to produce final anawari statement relating to village Vanghroli of the year 1989-90, as additional evidence. However, we propose to deal with the same later on.

7. We have heard learned counsel for the parties at length as well as we have taken into consideration the record of the case.

8. The submission that the market value of the acquired lands ought to have been determined on the basis of sales index produced by the appellant has no substance. The best evidence of value of the property is a sale transaction in respect of the acquired land and in absence of such sale relating to the acquired lands, the sale transactions relating to the neighbouring lands in the vicinity of the acquired land. When sale transaction relating to neighbouring lands in the vicinity of the acquired lands are sought to be relied upon, the features which are required to be presented before the Court are; (i) it must be within a reasonable time of the date of the notification; (ii) it must be a bona fide transaction; (iii) it should be a sale of land similar to the land acquired or land adjacent to the land acquired; and (iv) it should possess similar advantageous features. These relevant features could have been presented to the Court either by examination of vendor or vendee or scribe of the deed. Here, in the present case, the appellants did not examine the vendor or the vendee or the scribe of any sale deed mentioned in the index and, therefore, the Reference Court was justified in not placing reliance on the index of sale transactions produced by the appellants while determining market value of the acquired lands.

9. The contention that previous awards of the Court ought to have been taken into consideration for ascertaining the market value of the acquired lands, is devoid of merits. It is true that the appellants had produced previous awards of the Reference Court rendered in respect of lands of village Sangol at Exh.210 and in respect of lands of village Thasra at Exh.211, whereas judgment of the High Court at Exh.207. However, mere production of previous awards of the Reference Court is of no consequence, unless it is established that the lands of villages Sangol and Thasra as well as lands acquired in the present case were equally fertile and were similar in all respects. Admittedly, no witness was examined on behalf of the appellant to establish the fact that the lands acquired in the present case were similar to the lands of villages Sakol and Thasra. When previous award of the Reference Courts are sought to be relied upon, it should be established by cogent evidence before the Court that nature, price, produce, fertility, situation, quality, measurement, tenure and surrounding development in both cases is almost similar. Under the

circumstance, no exception can be taken to the finding recorded by the Reference Court that previous awards of the Court produced at Exh.211 are neither comparable nor relevant for the purpose of determining market price of the acquired lands on the relevant date.

10. However, we note that the determination of market value of acquired lands by the Reference Court on yield basis is highly unsatisfactory. While determining the compensation of the acquired lands on yield basis the Reference Court has not taken into consideration the principles laid down by the Supreme Court in the case of Special Land Acquisition Officer vs. P. Veerabhadarappa, reported in AIR 1984 Supreme Court 774. As noted earlier, the claimants had produced certified copy of deposition of the expert, Mohanbhai Brahmbhatt, who was examined in another case at Exh.196 as well as valuation report prepared by him in another case at Exh.197. It is true that evidence given by a witness in a judicial proceeding is relevant for the purpose of proving in a subsequent judicial proceeding or in a later stage of a proceeding the truth of the fact which it states. However, before admitting evidence given by the witness in a judicial proceeding, the Court must be satisfied that the witness is dead or cannot be found or is incapable of giving evidence or kept out of way by the adverse party or his presence cannot be obtained without an amount of delay or expenses. However, we find that before admitting previous deposition of expert, Mohanbhai Brahmbhatt, which was recorded in another case as evidence in this case, the Reference Court has not recorded satisfaction that the witness is dead or cannot be found or is incapable of giving evidence or kept out of way by the adverse party or his presence cannot be obtained without an amount of delay or expenses. Under the circumstance, certified copy of deposition of the expert, Mohanbhai Brahmbhatt, recorded in another case could not have been read as relevant piece of evidence while determining market value of the acquired lands. Reliance placed by the Reference Court on the said piece of evidence which is totally inadmissible is contrary to the provisions of Section 33 of the Indian Evidence Act and, therefore, will have to be ignored while disposing of all these appeals.

11. We further notice that the Reference Court has totally misread the evidence of witness Manharbhai Motibhai recorded at Exh.32. Placing reliance on the deposition of this witness, the Reference Court has held that his evidence shows that total yield of paddy crop



was 4000 kg per Hectare. The Reference Court has also referred to Exh.220 to 223 to hold that the claimants were taking more than 11000 kg yield of paddy crop in a year. The Reference Court after referring to deposition of the witness examined on behalf of the claimants, has made reference to Krushi Jivan Magazine which was produced at Exh.193 and held that the said Magazine establishes that total yield of paddy crop was 5500 kg per Hectare. In our view, the evidence on record does not establish at all that the total yield of paddy crop was 4000 kg per Hectare. We may state that, though witness Manharbhai Motibhai had produced bills issued by Maheshwari Kirana Stores at Exh.220 to 223 to establish that paddy yield was more than 11000 kg. per year, no one was examined from Maheshwari Kirana Stores to prove contents of the bills. Moreover, the bills do not bear consecutive numbers. Under the circumstances, those bills could not have been referred to or relied upon while determining total yield of paddy crop. Similarly Krushi Jivan Magazine, produced at Exh.193, which relates to the data of 1994, could not have been relied upon while ascertaining as to what was the yield of paddy crop in the years 1989, 1990 and 1991 in which years notifications under Section 4(1) of the Act were published. The witness did not substantiate his say that the yield of paddy crop was more than 11000 kg per Hectare by leading cogent and reliable supporting evidence. Therefore, the finding regarding total yield of paddy crop which is based on no evidence cannot be sustained and will have to be set aside. Similarly the findings recorded by the Reference Court that total yield of wheat was 4000 kg per Hectare or that of Tobacco was 2200 kg per Hectare or that of millet was 3000 kg per Hectare, are vitiated for the above-stated reasons and cannot be sustained. Moreover, we notice that the finding recorded by the Reference Court that most of the claimants were producing crops of wheat or paddy and others were producing crop of tobacco and millet, is contrary to the record of the case and is not borne out from Exh.22 to 31, which are copies from the registers maintained by the Irrigation Department regarding payment of charges made by the farmers for supply of water. Extracts of Village Forms 7/12 produced on the record of the case at Exh.40 to 194 would indicate that 50% of farmers were taking crop of paddy in one season and wheat in another season, whereas rest of them were taking only one crop in a year and, therefore, the basis adopted by the Reference Court for determining the market value of the acquired lands on yield basis is not only illegal but not warranted by the facts of the case at all. Moreover, no cogent and reliable evidence was led by the claimants to establish

that minimum price of paddy was Rs.350 per 100 kg or that of wheat was Rs.375 per 100 kg or that of Tobacco was Rs.1750 per 100 kg. or the price of millet was Rs.250 per 100 kg on the relevant dates, i.e, publication of notifications under Section 4(1) of the Act. While mentioning the minimum prices of the crops, the Reference Court has taken average of price of different crops stated by the witness of the claimants as well as price mentioned by expert, Mohanbhai, in his earlier deposition which was recorded in another case and also the data prepared by expert, Mohanbhai, on the basis of magazine which was for the year 1994. Under the circumstances, the finding regarding minimum price of different crops recorded by the Reference Court also cannot be upheld and is liable to be set aside.

12. The Supreme Court has emphasized in a catena of decisions that the claimants in a land acquisition reference case are like plaintiffs and it is for them to establish by cogent and reliable evidence that offer of compensation made by the Land Acquisition Officer is inadequate. Here, we notice that the claimants have failed to discharge this burden and, therefore, the Reference Applications cannot be accepted. In normal circumstances, we would have remitted matters to the Reference Court reserving liberty to the parties to lead evidence regarding market value of the acquired lands. However, remanding matters at such a distance of time is likely to cause prejudice to the claimants as well as to the acquiring body inasmuch as the evidence regarding market value of the acquired lands may not be available now. Moreover, the parties will have to incur avoidable expenses. The Supreme Court has, as a matter of principle, laid down that it is the duty of the Court to scrutinize evidence on record carefully and award a just compensation to the claimants in case of compulsory acquisition. Under the circumstances, we will now proceed to consider Civil Application No.1469 of 1999 which is filed by the claimants seeking permission of the Court to allow them to produce additional evidence at the appellate stage. In the application, it is stated that the application is made for the purpose of producing additional evidence with a view to completing the record and also with a view to enabling the court to pronounce the judgment between the parties effectively. The application is made for the purpose of production of final annavari patrak of the year 1989-90 prepared by the Government, i.e., Mamlatdar, Thasra, for the purpose of finding out production of crops during the relevant years. We may state that those patraks are on

the record of the case and the patraks are also exhibited, but they are not complete. Documents, which were produced, were provisional annavari patraks and not final annavari patraks. The applicants have claimed in the application that production of final annavari patraks from 1989 to 1990, has become necessary so that the existing evidence on the record of the case can be properly appreciated by the Court while determining market value of the acquired lands. It is also claimed in the application that the patrak sought to be produced is with certificate of Talati-cum-Mantri issued on February 26, 1999. The said patrak is produced at Annexure "I" to the application. The applicants have mentioned in the application that it would not be necessary to examine any witness to prove documents, because they come from the custody of the Government and is duly certified by the Talati-cum-Mantri. Under the circumstances, in Civil Application No.1469 of 1999, the applicants have prayed the Court to permit them to produce the said patrak as well as certificate issued by the Talati-cum-Mantri, Gram Panchayat of Vanghroli, Taluka Thasra, District Kheda, for the purpose of doing complete justice to the parties.

13. We have heard the learned counsel for the parties regarding production of additional evidence. It may be stated that annavari patraks which are on record of the case are not complete and, therefore, it is necessary to have complete annavari patraks on the record of the case. Authenticity of annavari patrak which is sought to be produced as additional evidence, is not in dispute at all and if permitted to be brought on record, it would enable the Court to pronounce the judgment effectively and would serve the cause of justice. When we have decided not to remit the matters to the Reference court, with liberty to the parties to lead fresh evidence, it would become necessary for this Court to determine the market value of the acquired lands as on the relevant dates and, therefore, there is no manner of doubt that the Court requires Annexures "I" and "II" to be produced on record for doing substantial justice between the parties. Therefore, Civil Application No.1469 of 1999 will have to be allowed and is accordingly allowed. The documents sought to be produced on record are given Exhibits Nos. 225 and 226 respectively.

14. In view of the additional evidence permitted to be brought on record, we would now proceed to determine market value of acquired land on crop income method.

Exh.40 to 194 indicate that 85 farmers were taking two crops in a year, whereas 75 farmers were taking one crop in a year and in case of six farmers village form No.7/12 are not available and therefore, it is not possible to hold as to whether they were taking one crop in a year or two crops in a year. The revenue record further shows that number of farmers taking paddy crop in one season and wheat in another season is 83 and this is borne out from Exh Nos. 47, 50, 54, 55, 57, 58, 60, 61, 62, 66 to 78, 93 to 109, 113, 114, 118, 119, 121 to 129, 139, 142, 143,144, 159 to 180, 182, 183, 187 and 192 to 194, whereas 16 farmers were taking only paddy crop in one season in the whole year and 12 farmers were taking crop of millet in the whole year. As per Exh.225, which is produced on the record of the case as additional evidence, it becomes evident that yield of paddy crop was 1453 kg per Acre, i.e., 3589 kg per Hectare, and as indicated in the price list prepared by the Agricultural Produce Market Committee, Kapadwanj, average price of paddy was Rs.3.12 per kg. at the relevant time. We may state that the price lists prepared by the APMC, Kapadwanj, are already produced on the record of the case at Exh.35 and 36. Calculated on this basis, the gross income per Hectare would be Rs.11,197 and after deducting 50% towards cost of cultivation, the net income of paddy crop would be Rs.5,598.50 per Hectare. Witness Manharbhai Motibhai Exh.32 has stated in his evidence that the yield of wheat crop was 5000 kg to 6000 kg per Hectare. However, the claimants have restricted the same to 4500 kg per Hectare and it is not disputed on behalf of the opponents that yield of wheat crop would not be 4500 kg per Hectare. As indicated in Exh.35 and 36, price of wheat at the relevant time was Rs.2.72 per kg and, thus, gross income would come to Rs.12,240 per Hectare. After 50% is deducted towards cost of cultivation, net income of wheat crop would be to Rs.6,120 per Hectare. Additional evidence permitted to be produced on the record of the case indicates that yield of tobacco crop was 913 kg per Acre, i.e. 2255 kg per Hectare. The learned counsel for the parties after verifying the facts have stated at the Bar that the price of tobacco at the relevant time was Rs.17 per kg and we have no reason to doubt the said statement. If yield of tobacco is multiplied with its price, gross income would come to Rs.38,335 per Hectare and after deducting 50% as the cost of cultivation, net income of tobacco would come to Rs.19,157.50 ps per Hectare. As far as millet is concerned, Exh.225 shows that yield of millet crop was 583 kg per Acre, i.e, 1440 kg per Hectare. Again, Exh.35 and 36 which are price lists prepared by the APMC, Kapadwanj, indicate that price of millet at the relevant

time was Rs.2.18 ps per kg which would bring gross income to Rs.3139.20 ps. If 50% is deducted towards cost of cultivation, net income from millet crop would be Rs.1569.60 ps. As noted earlier, percentage of farmers taking two crops i.e, crops of paddy in one season and wheat in another season, in a year is 53. The net income per Hectare of 53% farmers would be Rs.5598 plus Rs.6120 = Rs.11718/-. Percentage of farmers taking only one crop of paddy in a year is 10. Therefore, the net income of 10% of farmers raising crop of paddy would be Rs.5598 per Hectare. Percentage of farmers taking one crop of millet in a year is 7.5 and the net income of 7.5% of farmers from the crop of millet would be Rs.1569.50 ps per Hectare. Percentage of farmers in whose cases village forms 7/12 are not available is 7.5, but, with the consent of the parties and having regard to the facts of the case, their net income is taken same as that from the crop of millet in a year and is taken to be Rs.1569.50 ps per Hectare. Average income of the abovereferred to three groups would come to roughly Rs.3000/-. The record further indicates that 23% of farmers were taking one crop of tobacco in a year and the net income of those farmers would come to Rs.19,157/-. Therefore, the average income of the group consisting of those farmers who were taking only one crop of either paddy or millet or tobacco would come to Rs.11078.50 ps. The average income of all the farmers calculated on this basis comes to Rs.11078.50 (total of income of all the farmers who were taking only one crop of paddy or millet or tobacco) plus Rs.11,718 (income of the farmers who were taking two crops in a year) would be Rs.22,890/- and if it is divided by two, income from the crops would come to Rs.11,445/- per Hectare, i.e. Rs.114.45 per Are. As decided by the Supreme Court in several reported decisions, multiplier of 10 should be adopted while determining market value of acquired lands on yield basis and if multiplier of 10 is adopted then the market value will be Rs.1144.50 ps per Are. We may state that the cultivation pattern is the same and, therefore, the average income of the farmers is calculated on the abovereferred to basis. Having regard to the facts of the case, average income of all the farmers per Are is rounded off to Rs.1150/per Are. Thus, we hold that the claimants would be entitled to compensation for the acquired lands in the present case at the rate of Rs.1150/- per Are. We may state that this order is passed with specific consent of the claimants and broad consensus of the acquiring body and shall not be treated as precedent in any other case.

15. For the foregoing reasons, Civil Application

No.1469 of 1999 filed by the applications for the production of additional evidence is allowed for the reasons stated in the judgment, and the documents produced along with the application are exhibited as Exh.225 and Exh.226 respectively. All the appeals are partly allowed. It is held that the claimants would be entitled to compensation at the rate of Rs.1150/- per Are. Directions given in the impugned common award with regard to payment of additional compensation payable under Section 23(1-A) of the Act, as well as solatium and interest are upheld. The office is directed to draw decree in terms of this judgment. There shall be no order as to costs.

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(swamy)